

In the Matter of the Impasse Between)	
)	
)	
COACHELLA VALLEY UNIFIED)	
SCHOOL DISTRICT)	FACTFINDING REPORT
)	AND RECOMMENDED
)	TERMS OF SETTLEMENT
Public School Employer,)	
)	
- and -)	PERB CASE NO. LA-IM-3869-E
)	
COACHELLA VALLEY TEACHERS,)	
ASSOCIATION, (CVEA/CTA/NEA)	REPORT ISSUED
)	December 6, 2016
)	
Exclusive Representative.)	

Hearing Held on November 9, 2016

COMPOSITION OF THE FACTFINDING PANEL:

Impartial Chairperson:	Daniel R. Saling, Esq. Arbitrator/Factfinder 33192 Ocean Hill Drive Dana Point, CA 92629
District Member:	Ron Bennett, Chief Executive Officer School Services of California, Inc. 1121 L Street Suite 1060 Sacramento, CA 95814
Union Member:	Rose Luna, Regional Uniserv Staff California Teachers Association 1169 Mountain Ave Norco, CA 92860-3120

MAKING PRESENTATIONS TO THE FACTFINDING PANEL:

For the District:

John Gray, Vice President
School Services of California, Inc.
1121 L Street Suite 1060
Sacramento, CA 95814

Candace M. Bandoian, Esq.
DANNIS WOLVER & KELLEY
115 Pine Ave. Suite 500
Long Beach, CA 90802

For the Union:

Tomas Martinez, Region Uniserv Staff
California Teachers Association
75084 Gerald Ford Drive
Palm Desert, CA 92211

Carissa Carrera, Bargaining Chairperson
Coachella Valley Teachers Association
California Teachers Association
75084 Gerald Ford Drive
Palm Desert, CA 92211

BACKGROUND AND PROCEDURAL HISTORY

The Coachella Valley Unified School District (District) is K-12 public school district located in Riverside County with its headquarters located at 87225 Church Street, Thermal, CA 92247. The District is located and serves Riverside and Imperial Counties, known as the "Eastern Coachella Valley." The District was the 85th-largest school district in the state in the 2013-2014 school years and served 18,850 students.

The District covers a large geographic area, including the cities of Coachella and Indio, as well as the unincorporated communities of Mecca, Thermal, North Shore and cities south towards the Salton Sea. The District serves a 1000-square-mile area. The District provides kindergarten through twelfth grade education services in fourteen elementary, three middle schools, three high schools, one continuation high school, an adult school program and Preschool/Headstart programs.

The District accommodates a fast-growing population of the area. The District serves a growing community with an enrollment of 18,861 students (2015-16 per CDE), which 97.5% (18,396 in 2015-16 per CDE) is Hispanic (non-white).

The certificated bargaining unit of approximately 1000 members is represented by the Coachella Valley Teachers Association (CVTA). The CVTA is the exclusive bargaining agent for certificated employees and represents them in contract negotiation.

The District and CVTA on March 30, 2015 entered into a multiple year agreement with a term of July 1, 2014 through June 30, 2017. The bargained agreement allowed for a limited number of reopeners for the 2015-2016 school year and the 2016-2017 reopeners were limited to Article 18, "Salaries, Health and Welfare," and each bargaining party was allowed to add two additional articles.

The impasse and factfinding proceeding at issue arose from the negotiations between the District and CVTA on reopeners for the 2015-2016 school year.

BARGAINING HISTORY

In the spring of 2015, the District reopened Article 12 "Hours of Employment," Article 17, "Class Size," and Article 18, "Salaries and Health and Welfare Benefits." The CVTA reopened Article 16, "Extra Service Pay," and Article 18. The parties held their first bargaining session for 2015-2016 on May 18, 2015. The parties met twice in May of 2015 then delayed negotiations over the summer months.

The parties resumed negotiations in September 2015, and met and negotiated on approximately ten (10) additional dates and exchanged nearly twenty (20) proposals over the subsequent three (3) months until December 1, 2015, when the CVTA declared impasse.

The District and the CVTA entered into a number of understandings but there were no tentative agreements signed. The parties reached philosophical agreement on Articles 16 (Extra Service Pay) and 17 (Class size). However, none of these agreements concluded in a written agreement.

On December 1, 2015, the CVTA filed a declaration of impasse and requested that the Public Employee Relations Board ("PERB") appoint a mediator to assist the parties in their effort to reach an agreement. PERB assigned a mediator to assist the parties and mediation sessions were held on February 4, 2016, April 4, 2016, and April 20, 2016. On July 26, 2016, following an effort by the assigned mediator to settle the bargaining

impasse, the parties were certified to factfinding under the provision of Government Code section 3548.1 through 3548.3. A factfinding panel composed of an impartial chairperson and a representative of each party was appointed.

Daniel R. Saling was chosen and appointed by PERB to serve as the neutral chairperson of the factfinding panel. The District and Union designated Ronald Bennett, with School Services of California and Rose Luna, with the California Teachers Association to serve as their respective members on the panel. The District and the CVTA waived statutory time limits for the holding of a hearing or for the issuance of the panel's report.

The panel is statutorily authorized to meet with representatives of the parties through investigation and/or hearing and, if an agreement settling all issues cannot be reached, to make a factual finding based on the evidence presented as well as to recommend terms of settlement. To initiate those quasi-legislative responsibilities, a hearing was held on November 9, 2016, in Thermal, California, during which time the District and CVTA were given full opportunity to present evidence on the outstanding issues. Following the presentations of the bargaining parties, an effort was made to attempt to resolve the impasse through mediation. The panel members met with their respective groups and then met together with the neutral chairperson to attempt to resolve the impasse. Following nine (9) hours of mediation, it was determined that while the parties had made concessions and moved from their impasse positions, there would not be a negotiated settlement reached. The factfinding panel adjourned into an executive session to discuss the parties' presentations and to reach a consensus with regard to the issuance of a factfinding report. A second executive session was held on December 5, 2016 to discuss the parties' positions and finalize the panel's recommendations. Following the second executive discussion of the panel, the chairperson prepared a draft of the factfinding report and recommendations. A copy of the proposed factfinding report was emailed and/or faxed to the partisan members of the panel for their comments and/or suggestions. The partisan members of the panel were made aware of their right to either concur or dissent on all or part of the majority opinion. The chairperson prepared the final copy of this report and recommendations which was provided to the partisan panel members for their official signature.

RELEVANT FACTORS

Government Code Subsection 3548.2 (b) states as follows:

In arriving at their findings and recommendations, the factfinders shall consider, weigh, and be guided by all of the following criteria:

- (1) State and federal laws that are applicable to the employer.

- (2) Stipulations of the parties.
- (3) The interests and welfare of the public and the financial ability of the public school employer.
- (4) Comparison of the wages, hours, and conditions of employment of the employees involved in the factfinding proceeding with the wages, hours, and conditions of employment of other employees performing similar services and with other employees generally in public school employment in comparable communities.
- (5) The consumer price index for goods and services, commonly known as the cost of living.
- (6) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays, and other excused time, insurance and pensions, medical and hospitalization benefits; the continuity and stability of employment and all other benefits received.
- (7) Any other facts, not confined to those specified in paragraphs (1) to (6), inclusive, which are normally or traditionally taken into consideration in making the findings and recommendations.

Any criterion which has not been relied upon by the parties has not been considered in arriving at the findings and recommendations made herein.

The District did not assert an inability to pay and therefore the Factfinding Panel is not required to examine the economic condition of the District but only its willingness to make additional compensation available to the certificated bargaining unit.

ISSUES

In the declaration of impasse filed by the CVTA on December 1, 2015, the following represents the issues to be considered and addressed in this factfinding report:

- | | | |
|-----|--------------|------------------------------|
| (1) | Article 12 - | Hours of Employment |
| (2) | Article 17 - | Class Size |
| (3) | Article 18 - | Salaries, Health and Welfare |

DISTRICT GENERAL IMPASSE POSITION

The District wishes to maintain the workday at the current 7 hours, but for the comprehensive high schools, they wish to change the reporting time from 15 minutes prior to instruction to 10 minutes and change the required time following the end of the instructional day from 15 minutes to 0 minutes. The District wishes to maintain the Status Quo on the remainder of Article 12.

The District desires to maintain the Status Quo on Article 17, Class Size.

The District offered the CVTA a salary increase of 3% for 2015-2016 effective July 1, 2015.

UNION GENERAL IMPASSE POSITION

The District currently is at the minimum required amount of minutes at the high school level. The District had no flexibility for allocating minimum days for parent conferences even though the District is contractually obligated to have minimum day for each parent conference date. The CVTA wants to add an additional 20 minutes to the instructional day to meet the minimum instructional minutes at the high school while maintaining the current 15 minutes before and 15 minutes after for instructional preparation time. Further, the CVTA wants to have contractual language that will guarantee that the 15 minutes before and after the instructional day will be used for planning purposes for all bargaining unit members at the discretion of the unit member.

The CVTA proposed changes in Article 17, Class size.

The CVTA proposed a 7.23% a salary increase for 2015-2016 effective July 1, 2015. Additionally, based upon the CVTA's proposed lengthening of the work day by 20 minutes, they proposed an increase in compensation of 4.75% for the additional time.

SUMMARY OF BARGAINING PARTIES' POSITIONS

While the Factfinding was for the unsettled issues of the 2015-2016 school year, both the District and the CVTA discussed issues for the 2016-2017 and the 2017-2018 contract years. The parties proposed language on Article 12 - Hours, Article 17 - Class Size and Article 18 - Salary, Health and Welfare. Efforts were made to bargain language for these additional years with reopeners that allowed the parties to return to the bargaining table on a limited number of reopeners.

Both the District and the CVTA made meaningful attempts to mediate a settlement but disagreements on a few items prevented a settlement. Since a mediated settlement was not attainable, the factfinding panel proceeds to work on the issuance of its factfinding report.

FACTFINDING PANELS FINDINGS AND RECOMMENDATIONS

1. ARTICLE 12 – HOURS OF EMPLOYMENT

UNION AND DISTRICT POSITION

The District desired to lengthen the instructional day at the high schools to meet the minimum minutes required by the state. In an attempt to add additional time, the District proposed a reduction in the time teachers had to plan prior to school and after school. The District proposal would add instruction time and reduce planning time without additional compensation. The District proposed that all other provisions of Article 12 would remain Status Quo.

The CVTA proposed the addition of 20 instructional minutes a day. The additional minutes would apply to all grade levels and all bargaining unit members would have the additional 20 minute increase and would be compensated for the additional work time. Further, CVTA proposed to have the 15 minutes before and after the instructional day be duty free for all bargaining unit members.

ANALYSIS AND RECOMMENDATION

The issue of extending the instructional day for the 2015-2016 school is a moot point. The school year 2015-2016 has passed and it is factually impossible to add minutes to time that has already passed. It is the recommendation of the factfinding panel that the language of Article 12 remain Status Quo.

ARTICLE 17 – CLASS SIZE

UNION AND DISTRICT POSITION

The District did not wish to make any changes to Article 17 and wanted the language of the article to remain Status Quo.

The CVTA proposed language regarding the admission of 2 additional students in excess of the language of Article 17, section 171.1, and to allow the additional students to remain in the class for more than 20 days. The CVTA proposed compensation for students in excess of the established class size of \$40 per student per day in the elementary and \$8 per student per period per day for the high school.

ANALYSIS AND RECOMMENDATION

The issue of class size and the compensation for additional students for the 2015-2016 school is a moot point. The school year 2015-2016 has passed and it is factually impossible to address class size for dates that have already passed. It is the recommendation of the factfinding panel that the language of Article 17 remain Status Quo.

ARTICLE 18 – SALARIES, HEALTH AND WELFARE

UNION AND DISTRICT POSITION:

The District offered the CVTA a salary increase of 3% for 2015-2016 effective July 1, 2015. The District based its offer on its proposal to lengthen the instructional day by taking away the instructional planning time. The District believed that it was not lengthening the employee's work day and therefore there was no need to provide additional compensation beyond a salary adjustment.

The CVTA proposed an additional 20 minutes of instructional time be added to the employee's work day and requested an increase of 4.75% based on the additional work performed during for 2015-2016. Further, the CVTA proposed an increase of 7.23% for 2015-2016 effective July 1, 2015. The CVTA indicated that the District was financially able to afford the amount requested by the employees. Further, the compensation earned by the classified bargaining unit and the Superintendent has increased as a percentage of the budget while the certificated salaries have declined as a percentage of the budget.

ANALYSIS AND RECOMMENDATION

There was no presentation made by the District on its inability to pay for a salary increase for members of the certificated bargaining unit. The issue becomes what additional compensation, if any, was warranted.

The CVTA proposed an increase of 4.75% based on the additional work time served during the 2015-2016 school year based upon an additional 20 minutes per day being added to the instructional day. During the 2015-2016 school year, there were no additional instructional minutes added and therefore the request for compensation for additional work that was not performed is without merit.

The District has proposed an increase for the 2015-2016 school year of 3% to take effect on July 1, 2015, while the CVTA has proposed an increase of 7.23% for the same time

period. It appears that the only issue certified for factfinding that has any merit is the increase amount and its effective date.

The CVTA used neighboring districts of Palm Springs and Desert Sands to make salary comparisons. Palm Springs and Desert Sands have reached agreement for the school years of 2013-14, 2014-15, 2015-16, and 2016-17. In comparing the increase received by the two neighboring districts in comparison to the compensation received by Coachella certificated employees, after adjusting for increase in workload, one finds that Coachella was equal to or exceeded the increase received by Palm Springs and Desert Sands for the 2013-14 and 2014-15 school years.

	2013-14	2014-15	2015-16	2016-17
Coachella	5.00%	5.00%	0.00%	0.00%
Desert Sands	3.02%	2.00%	5.17%	4.00%
Palm Springs	5.29%	5.00%	5.50%	4.60%

The total increase for 2013-14, 2014-15 and 2015-16 are as follows:

Coachella	10.00%
Desert Sands	10.19%
Palm Springs	15.79%

The data indicates that if Coachella did not receive an increase for 2015-16, they would fall behind Desert Sands and Palm Springs. The panel also considered overall comparability of total compensation for the three districts in making its recommendations. The proposal by the CVTA of 7.23% is higher than the neighboring districts, however the proposal by the district of 3% is lower than the neighboring districts.

Based on the District ability to pay and the comparable increases by neighboring districts, it is the factfinding panel's recommendation that the certificated bargaining unit members of the Coachella Valley Unified School District receive a 5.00% salary schedule increase effective July 1, 2015 for the 2015-16 school year.

CONCLUSION

3548.3. Findings of fact and recommendation of terms of settlement; submission; costs:

(a) If the dispute is not settled within 30 days after the appointment of the panel, or, upon agreement by both parties, within a longer period, the panel shall make findings of fact and recommend terms of settlement, in which recommendations shall be advisory only.

Any findings of fact and recommended terms of settlement shall be submitted in writing to the parties privately before they are made public. The public school employer shall make such findings and recommendations public within 10 days after their receipt.

This report regarding the legal and jurisdictional requirement of Government Code 3548 et. seq, as referenced above have been met. This Factfinding proceeding is concluded as required by law.

Concur ✓

Dissent _____

Concur in part _____


Dissent in part _____

Concur ✓

Dissent _____

Concur in part _____

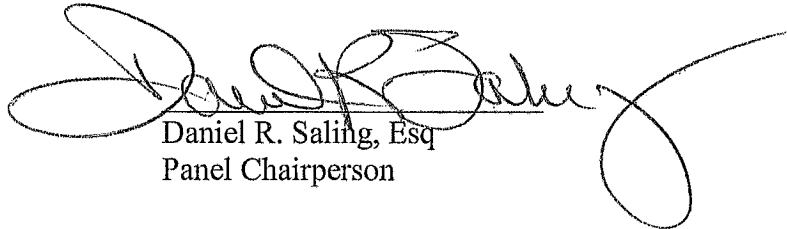
Dissent in part _____



Ronald Bennett
District Panel Member



Rose Luna
CVTA Panel Member



Daniel R. Saling, Esq
Panel Chairperson

Report Issue: December 6, 2016
Dana Point, California